

## **THE JUDICIARY**

The Judicial branch of the State Government of Hawaii is separate and distinct from, but coequal with, the Executive and Legislative branches. The State Constitution, Article VI, section 1, provides for the Supreme Court, the Intermediate Court of Appeals, Circuit Courts, District Courts, and such other courts as may be established by the Legislature. The Legislature utilized this constitutional authority to create the Land Court and Tax Appeal Court, established under sections 501-1 and 232-11, Hawaii Revised Statutes, respectively. The Family Courts, pursuant to section 571-1, Hawaii Revised Statutes, were subsequently added as divisions of the Circuit and District Courts.

### **SUPREME COURT**

The Supreme Court consists of the Chief Justice and four Associate Justices, all of whom are appointed by the Governor with Senate consent from a list of nominees presented by the Judicial Selection Commission. Justices serve for terms of ten years and may be retained by the Judicial Selection Commission. Justices and judges of all courts must retire upon attaining the age of seventy years. Statutory provisions relating to the Supreme Court are set forth in chapter 602, part I, Hawaii Revised Statutes.

The Supreme Court is the highest court in the State. Its duties include hearing and determining appeals from other courts; answering, at its discretion, any question of law reserved by the Circuit Courts, the Land Court, or the Tax Appeal Court; at its discretion, answering any question of state law certified by a federal court; entertaining, at its discretion, certain cases submitted on agreed facts; exercising original jurisdiction in all questions arising under writs directed to courts of inferior jurisdiction or under other extraordinary writs; making or issuing any order or writ in aid of its appellate or original jurisdiction; making and awarding judgments, decrees, orders, and mandates; and doing other acts necessary to carry out its mandate. The Court has the power to reprimand, discipline, suspend, retire, or remove any justice or judge for misconduct or disability pursuant to rules promulgated for such purpose. As provided in the State Constitution, Article VI, section 7, the Court promulgates rules of procedure, having the force and effect of law, for all courts in the State. The Supreme Court also licenses and disciplines attorneys.

As administrative head of the Judiciary, the Chief Justice exercises exclusive authority over the budget and court operations; makes judicial assignments; and prescribes a uniform system of keeping and reporting statistics. The Chief Justice, through an "assignment judge" whom the Chief Justice appoints from among appellate level judges, assigns cases to either the Supreme Court or the Intermediate Court of Appeals.

## **Administrative Director of the Courts**

The Administrative Director of the Courts serves as the assistant to the Chief Justice in day-to-day administration of the courts, and manages the administrative programs and services required to support all court and auxiliary operations. The Office of the Administrative Director of the Courts is divided into three divisions: the Support Services Division, the Policy and Planning Division, and the Intergovernmental and Community Relations Divisions. Several programs and services operate within each division. These programs and services include: the Administrative Driver's License Revocation Office (administrative revocation procedures are provided for in chapter 291E, Hawaii Revised Statutes), Budget and Statistics, Center for Alternative Dispute Resolution (established under section 613-2, Hawaii Revised Statutes), Children's Justice Centers (established under chapter 588, Hawaii Revised Statutes), Fiscal and Support Services, Office on Equality and Access to the Courts, Internal Audit, Judiciary History Center (established under section 6F-2, Hawaii Revised Statutes), Law Library, Personnel, Planning, Public Affairs, Staff Attorneys, and Telecommunications and Information Services.

The Administrative Director is appointed by the Chief Justice with the approval of the Supreme Court, pursuant to the State Constitution, Article VI, section 6. The duties of the Administrative Director of the courts are set out in section 601-3, Hawaii Revised Statutes.

## **Judicial Council**

The Judicial Council, established under section 601-4, Hawaii Revised Statutes, consists of members appointed by the Supreme Court to serve in an advisory capacity on court-related administrative matters. The Council, which cannot exceed fifteen members, includes judges, attorneys, and lay members.

## **Commission on Judicial Conduct**

As provided in the State Constitution, Article VI, section 5, the Commission on Judicial Conduct is created by the Supreme Court to carry out the Court's power to reprimand, discipline, suspend, retire, or remove from office any justice or judge for misconduct or disability. The Commission may investigate and conduct hearings based on allegations of misconduct or disability and make recommendations to the Court concerning reprimand, discipline, suspension, retirement, or removal. The Commission is composed of seven members appointed by the Supreme Court. Three members, including the Commission's chairperson, are attorneys licensed to practice law in the State; four members, including the vice chairperson, are citizens who are not active or retired judges, or attorneys. Commission members and any special counsel appointed for the Commission by the Supreme Court are immune from suit for any action taken in the course of their official duties.

## **Board of Examiners**

The Board of Examiners consists of Supreme Court-appointed members of the Hawaii Bar. Its function is to examine the legal and educational qualifications of applicants to the Bar. The Board, which administers semiannual state bar examinations, operates under the authority of Rule 1 of the Rules of the Supreme Court.

## **Office of Disciplinary Counsel**

The Office of Disciplinary Counsel investigates and prosecutes attorneys alleged to have violated the Code of Professional Responsibility, pursuant to Rule 2 of the Rules of the Supreme Court. It also adopts and publishes advisory opinions interpreting the Code.

The Board, consisting of eighteen attorney and non-attorney members, contracts for the services of five full-time disciplinary attorneys and support staff.

## **Judicial Selection Commission**

Article VI, section 4, of the State Constitution provides for a Judicial Selection Commission. The Commission is a non-partisan selector of judicial nominees. Commission members are prohibited from taking active roles in political management or campaigns and are ineligible for appointment to judicial office for the duration of their term on the Commission and for three years thereafter. The Commission consists of nine members: two appointed by the Governor, two each by the President of the Senate and Speaker of the House of Representatives, one by the Chief Justice, and two by members in good standing of the State Bar. Of the members appointed by the Governor, no more than one may be an attorney. Not more than four of the Commission members may be licensed attorneys.

## **INTERMEDIATE COURT OF APPEALS**

For most matters, the Intermediate Court of Appeals has concurrent jurisdiction with the Supreme Court and hears any matter assigned to it by the Chief Justice or the Chief Justice's designee. Decisions of the Intermediate Court of Appeals may be reviewed by the Supreme Court upon an application for a writ of certiorari on grounds that the decision of the Intermediate Court of Appeals: (1) contained grave errors of law or fact, or (2) was inconsistent with its prior decisions, with decisions of the Supreme Court, or with decisions of federal courts.

The Intermediate Court of Appeals sits in Honolulu, but may temporarily be assigned elsewhere by the Chief Judge. The Chief Judge and three associate judges who comprise the Intermediate Court are appointed in the same manner as the Supreme Court justices, for ten-year terms. Statutory provisions relating to the Intermediate Court of Appeals are set forth in chapter 602, part II, Hawaii Revised Statutes. The Intermediate Court of Appeals sits in panels of three

judges. Two additional judges have been authorized for the Intermediate Court of Appeals, but the positions have not yet been funded.

## **CIRCUIT COURTS**

The State of Hawaii is divided into four judicial circuits. Pursuant to chapter 603, Hawaii Revised Statutes, the First Judicial Circuit consists of the island of Oahu, and other islands of the State not in any other circuit. It has twenty-three Circuit Court judges.

The Second Judicial Circuit is comprised of the islands of Maui, Molokai, Lanai, Kahoolawe, and Molokini. It has three Circuit Court judges. The Third Judicial Circuit, also with three Circuit Court judges, consists of the island of Hawaii. The Fifth Judicial Circuit includes the islands of Kauai and Niihau and is served by two Circuit Court judges.

There is no Fourth Judicial Circuit. It was eliminated in 1943 when the Fourth Circuit (part of the island of Hawaii) merged into the Third, and the designation was dropped altogether.

Circuit Courts have jurisdiction over criminal offenses of state laws that are committed in the respective circuits or transferred by change of venue; actions for penalties and forfeitures incurred under state laws; and civil actions and proceedings.

To execute their responsibilities, Circuit Courts hold powers that include granting the probate of wills; hearing appeals allowed by law from agencies; issuing necessary or appropriate writs and orders; administering oaths; compelling attendance of parties and witnesses and the production of information; admitting or dispensing bail as allowed; issuing warrants; awarding judgments, decrees, orders, and mandates; and issuing injunctions to stop violations of state laws or county ordinances.

Circuit Court judges are appointed by the Governor with Senate consent from a list of nominees submitted by the Judicial Selection Commission. They serve terms of ten years, must retire at age seventy, and may be retired or removed for incapacity.

## **FAMILY COURTS**

Family Courts, established under chapter 571, Hawaii Revised Statutes, consist of circuit and district family judges and are administered as divisions of the Circuit Courts. Family Courts are concerned with legal processes involving families and children. Family Courts, in accordance with statutory policy, promote the reconciliation of distressed juveniles with their families, render appropriate punishment to offenders and foster their rehabilitation, and reduce juvenile delinquency. Under section 571-11, Hawaii Revised Statutes, Family Courts have exclusive original jurisdiction over minors who have committed or attempted to commit violations of federal, state, or county laws; over abused, neglected, or abandoned children; over children beyond the control of their parents or custodians or whose behavior is injurious to themselves; and over children not attending school or receiving educational services as required

by law. Family Courts are also authorized to: determine the custody of children or appointment of their guardians; oversee adoption proceedings; terminate parental rights; give judicial consent for marriage, employment, or military enlistment when required by law; treat or commit mentally ill or retarded children; and administer the Interstate Compact for Juveniles (chapter 582, Hawaii Revised Statutes).

Family Courts have jurisdiction over offenses committed against children by parents, guardians, or legal custodians; offenses of custodial interference; abandonment of children; persistent nonsupport; actions endangering the welfare of children or incompetent persons; annulment, divorce, and separation proceedings; proceedings under the Uniform Desertion and Nonsupport Act and Uniform Reciprocal Enforcement of Support Act; commitment of adults alleged to be mentally defective or mentally ill; proceedings involving the question of support between parents and children or between husbands and wives; appointment of guardians for adults; and proceedings to waive jurisdiction over minors (thereby allowing them to be tried as adults) alleged to have committed serious criminal acts.

In the First Judicial Circuit, the Chief Justice designates one Circuit Court judge to act as the Senior Family Court judge. In the other circuits, the Chief Justice assigns the functions of the Senior Family Court judge to the Administrative Judge of the Circuit Court.

Section 571-8, Hawaii Revised Statutes, allows the establishment of District Family Courts within the Circuit Courts. The geographical jurisdictions are the same as those of the District Courts. Judges of the District Family Courts are entitled District Family Court judges and must have the same qualifications as District Court judges.

### **Board of Family Court Judges**

The Board of Family Court Judges, established under section 571-5, Hawaii Revised Statutes, consists of all the State's Family Court judges. The principal function of the Board is to establish general policies for the conduct of Family Courts.

## **LAND COURT**

The Land Court, established under section 501-1, Hawaii Revised Statutes, has exclusive original jurisdiction over all applications for the registration of title to land easements or rights in land held and possessed in fee simple within the State, with power to hear and determine all questions arising upon the applications. It also has jurisdiction over other questions brought forth under the Land Court Registration law, chapter 501, Hawaii Revised Statutes.

The Administrative Judge of the Circuit Court of the First Circuit, subject to the direction of the Chief Justice, assigns all Land Court matters to a judge or judges of the First Circuit Court.

The Land Court employs a Registrar to retain custody and control of all papers and documents filed under the Land Court Registration law.

## **TAX APPEAL COURT**

The Administrative Judge of the First Circuit Court, subject to the direction of the Chief Justice, assigns all Tax Appeal Court matters to a judge or judges of the First Circuit Court.

The Tax Appeal Court, established under section 232-11, Hawaii Revised Statutes, hears direct appeals regarding real property taxation from assessments or from the Boards of Review. It is a court of record and decides all questions of fact and law, including constitutional questions involving real property taxation, without juries.

## **DISTRICT COURTS**

There is a system of District Courts within each of the judicial circuits, pursuant to chapter 604, Hawaii Revised Statutes. Generally, the jurisdiction of District Courts is limited to civil actions in which claims do not exceed \$20,000; to criminal offenses punishable by fine or by imprisonment not exceeding one year, whether with or without a fine; and to violations of county ordinances.

The numbers of District Court judges and District/Family Court judges in the various District Courts are as follows: District Court of the First Circuit, twenty-three judges; District Court of the Second Circuit, five judges; District Court of the Third Circuit, six judges; and District Court of the Fifth Circuit, two judges.

District Court judges are appointed by the Chief Justice with Senate consent for terms of six years from a list of nominees presented by the Judicial Selection Commission. District Court judges may be reprimanded, disciplined, suspended, or removed from office for misconduct or disability as provided by Supreme Court Rules. District Court judges must be residents of the judicial circuit where appointed and be attorneys licensed to practice in the courts of the State for five years. The Chief Justice also appoints temporary District Court judges on a per diem basis to perform auxiliary judicial functions in all circuits.

